

BEAVERCREEK CITY COUNCIL  
REGULAR MEETING August 8, 2016 6:00 p.m.

**CALL TO ORDER**

Mayor Stone called the meeting to order followed by roll call.

PRESENT: Council Member Jarvis, Council Member Litteral, Council Member Upton, Council Member Wallace, Council Member Whilding, Vice Mayor Vann, Mayor Stone

ABSENT: None

ALSO IN ATTENDANCE: Jessica Brockman, Legal Counsel; Dennis Evers, Chief of Police; Theresa Hathaway, Fiscal Officer; Bill Kucera, Financial Administrative Services Director; Dianne Lampton, Clerk of Council; Jeff McGrath, Planning & Zoning Director; Nick Smith, Assistant City Engineer; Mike Thonnerieux, Public Administrative Services Director

**PLEDGE**

Mayor Stone led the pledge and a prayer.

**APPROVAL OF AGENDA**

Council Member Litteral MOVED to approve the agenda, seconded by Vice Mayor Vann. Motion PASSED by majority voice vote.

**APPROVAL OF MINUTES**

Council Member Litteral MOVED to approve the minutes of the July 11, 2016 Regular Meeting, seconded by Council Member Wallace. Motion PASSED by majority voice vote.

(Abstained – Jarvis)

Council Member Wallace MOVED to approve the minutes of the July 25, 2016 Regular Meeting, seconded by Council Member Whilding. Motion PASSED by majority voice vote. (Abstained – Upton, Vann)

**PRE-SCHEDULED PRESENTER**

2015 Audit Review, Greg Hughes, Plattenburg and Associates Inc.

Mr. Hughes explained he was reviewing a single audit including federal programs for calendar year 2015. He said it was a very good report. He explained the report was based on the audit of financial statements and compliance items or internal control items related specifically to the financial audit. He said they did not identify

August 8, 2016

any deficiencies in the internal control that they considered to be material weaknesses which meant they are as they should be. He said the results of their tests disclosed no instances of noncompliance or other matters that are required to be reported. He said the audit is not designed to go into all the laws and all the compliance areas but ones connected to the financial statements were right where they needed to be. He explained related to the federal programs the city complied in all material respects with the compliance requirements on each of its major federal programs. He said this was a clean audit.

Council Member Wallace asked if Mr. Hughes identified where the city could improve. Mr. Hughes explained the audit is not designed to indicate if it is perfect or not. He said you cannot look at every transaction because it would be too expensive and time consuming. He said they look at the critical items.

Council Member Upton asked how long Plattenburg had been auditing Beaver Creek. Mr. Hughes said approximately 25 non-consecutive years. Council Member Upton asked where the city compared against other cities. Mr. Hughes said in the Dayton area in the top 10-15%.

Mr. Kucera said the City had received notification of the Ohio State Auditor Award with Distinction which the City has now received four out of the last five years. He said only 5% of the entities audited in the State of Ohio receive this.

**PUBLIC HEARING – PUD 16-1 Cottages at Beaver Creek**

Clerk Lampton read an application filed by Charles Simms Development, 2785 Orchard Run Road, Dayton, Ohio 45449. The applicant requests rezoning and concept plan approval of 20.03 acres from A-1 Agricultural District to R-PUD 16-1 Residential Planned Unit Development for 94 multi-family residential units to be known as The Cottages of Beaver Creek. The property is located on the east side of County Line Road approximately 700 feet south of the intersection of County Line Road and Weber Drive. The property is further described as Book 3, Page 3, Parcel 72 on the Greene County Property Tax Atlas.

**Applicant Presentation**

Charlie Simms, 2785 Orchard Run Road, Dayton, Ohio

Mr. Simms said this would be their third community in Beaver Creek. He explained the Planning Commission had approved this be a medium density for 5.5 units per acre. He said staff had indicated they would like an empty nester type community. He said the plan is 4.5 units per acre with ranch style floor plans. He explained the Planning Commission gave them several directives at the first meeting. The developer met with the neighbors and made changes to the site plan that was not even on the table yet. He said based on the conversations with the neighbors they

August 8, 2016

made adjustment to the plans. He was available to answers any questions after the public hearing.

#### Staff Presentation

Mr. Burkett summarized the staff report dated August 4, 2016 which stated the applicant is requesting to rezone 20 acres from A-1 to R-PUD to allow for the construction of 90 unites of medium density residential. He discussed the location of the property, the Land Use Plan designation for the property under discussion and the surrounding properties' designations, the proposed uses, the proposed concept plant, the access points, buffers and several conditions listed. Staff and Planning Commission recommend approval of the applicant's request.

#### Public Input

Christopher Zeller 4336 Straight Arrow Rd, Beavercreek, Ohio

Mr. Zeller explained he bought his condo at the peak of the bubble in 2007. He said if he sold it today he would be roughly \$25,000 under water based on his appraised value and real estate fees. He said the benefit of today's housing market is interest rates are at record lows, prices are high and new homes will sell with a commanding price. He said Mr. Simms stated his new homes would sell for \$130 per square foot. Mr. Zeller stated he would be lucky to sell his home for \$90 per square foot; he purchased it originally for \$115 per square foot. He said increasing supply would only hurt individuals like himself and other consumers. He questioned how likely a neighboring community could sell homes for \$130 per square foot when their homes have devalued so much. He said this is a risk for foreclosure and the new community and a real risk for further foreclosures in his community. He is fortunate to rent his condo but others are not so lucky. He asked if it was bad to leave a 20 acre field alone and undeveloped. He said part Beavercreek's allure is not stacking homes on each other. He asked to reconsider and protect the consumer.

Brian Daniels, 4358 Straight Arrow Rd, Beavercreek, Ohio

Mr. Daniels stated he was the president of the condo association. He explained he had attended all of the Planning Commission meetings relative to this topic. He pointed out, in his opinion, the Planning Commission acted biasedly in favor of the developer and against the current residents. He said they had their concerns, opinions and was asked to meet with the developer to share their opinions and reach a compromise. He said at the subsequent Planning Commission meeting, the residents we given no opportunity to express their opinion of the outcome of that meeting that the Planning Commission had asked them to participate in. He said the Planning Commission gave the developer unfettered access to express his concerns, views and opinions and suppressed all the owners from sharing in the outcome of that meeting. He said the process up to this point has been very

August 8, 2016

biased in favor of the developer and has suppressed the opinions of the owner. He said the current homeowners had safety concerns regarding the intersection of Quill and Straight Arrow. He said this was the only entrance into Cinnamon Ridge and by making the secondary entrance from the Cottages dump into this intersection you are diverting traffic from two condominium complexes into one very small intersection which is currently a stop sign. He stated this is also a bus stop. He said there has been nothing done for both the safety concerns and the traffic congestion concerns. He said Mr. Simms eluded that traffic was not considered an issue but there are already traffic problems at that little portion of Straight Arrow Road. He said this was brushed off and ignored. He said they are the residents, they go through this intersection multiple times per day and see the traffic problems and now the city want to double the traffic through that intersection. He requested Council reconsider and further evaluate as he did not think this was a good plan. He said when this was presented the owners to the north it was requested there not be a primary access to Quill Road to the north and only be an emergency access. He said this is their only access to their complex. He said they had requested the same and were denied, brushed off and ignored. He said the reason given was there was a stop light on Straight Arrow and the Cottages of Beaver Creek need to have access to a stop light. He said traffic wasn't a concern when it was coming on Straight Arrow but when they wanted to make that an emergency access and the only way they could get in and out was on County Line now all of a sudden traffic was a concern and that was the reason why they could not have an emergency access to the south. He said this was one of the examples of why he thought they were treated biasedly. He said he was very concerned of how close the complexes are and will become a financial burden to Cinnamon Ridge when they try to use their resources not available to the Cottages.

Mae Giehl, 4456 Straight Arrow Road, Beaver Creek, Ohio

Ms. Giehl explained there are three houses that did not have the 50 foot set back but instead was 25 feet and the large retention pond is there. She said Mr. Simms thought he could get the pond setback and was very concerned that it is only 25 feet from her line along with the other two houses. She learned also that if they put the road there, if something were to happen to the house there they could never rebuild because of the footprint ten feet from the house. She said she did not know of anywhere else in Beaver Creek where they have high density, high density, high density; she said they have new apartments still going in, Cinnamon Ridge and now they want to dump this on them. She said surely something could be done to at least alleviate a little bit for them.

Sean Simmons, 4282 Weber Drive, Beaver Creek, Ohio

Mr. Simmons said there are concerns with the impact on the real estate market. He said there have been four people since this news came out that have either

August 8, 2016

sold or actively selling their house. He is concerned about continuing to be able to rent out his condo and has experienced a loss in property value. He said some of the concessions were met as a result of meeting with the developer but there is a lot of concern and the preference would be to leave it as an open field. He explained seeing the open field was why he stayed in this area.

The public hearing was closed.

#### Council Input

Council Member Upton questioned if the greenery at the back of the property would remain or if it would be knocked down and replaced. Mr. Simms explained this was the park land dedication and would be left the way it is.

Council Member Litteral questioned if there was a way to address the concerns of the intersection with the additional traffic. Mr. Burkett explained the engineering was working with the City of Kettering to get a left turn arrow at the light to help with people coming out of Straight Arrow competing with people turning right out of Research Park. He said there would be a slight increase in traffic with the additional 90 units.

Council Member Litteral asked for someone to address the house with the 25 foot buffer and the retention pond. Mr. Burkett explained it is typical to allow the retention ponds to be within the 50 foot buffer area whenever there is a commercial or any other development. He said there was a concern the house would be too close to the right-of-way which already exists so that will not be an additional dedication should this be approved. Council Member Litteral asked for information if the house is taken down. Mr. Burkett explained if it is a nonconforming structure and the owner wants to use the existing footprint they could work with them. He said typically the code states 60% or more destroyed but staff would work with that on a case by case basis.

Council Member Wallace asked if the pond would be wet or dry. Mr. Burkett said it was currently a retention pond and at the specific site plan stage there would be a condition for fountains and aeration.

Council Member Wallace commented that the City of Beavercreek cannot prevent a person from selling their land. She said the City can zone it and look at conditions based on what they want to build there. She explained if a person decides to sell farm land there is nothing any city can do to prevent this. She said for the people who commented about liking the green space, she appreciates that you have enjoyed it but the city can't prevent that from changing. She said if the City of Beavercreek owned the property, it would be a different issue. She wanted the

August 8, 2016

public to understand that as people sell their farms the City cannot prevent them from selling it to those who want to develop it.

Council Member Jarvis questioned the densities on the north and south side. Mr. Burkett replied Heppa is 10.3 units per acre, Stonegate Commons is 9.6 units per acre, Stonegate II is 4.2 units per acre and Cinnamon Ridge is 6.96 units per acre. Council Member Jarvis confirmed the Cottages was less dense than almost all of them. He questioned condition 10. E. and asked if the fire department had been contacted about it. Mr. Burkett said the design detail comes at the specific site plan stage. He explained there was a tree that some of the neighbors would like to save even though it was dying. He said they were questioning if the access could curve around the tree. He said they wanted it noted at this stage to make sure it would be addressed at the specific site plan stage. He said condition 10G questioned where the construction traffic would access the area. Mr. Burkett replied they would build the construction road off of County Line Road.

Council Member Whilding said he appreciates the applicants work. He agreed with comments from the residents and with Council Member Wallace's comments. He said the land owner is entitled to do what they want. His concern is the access. He said they are always trying to connect the communities to give them multiple access points. He would like to have not only the fire department but also the police department to evaluate the two emergency access points and determine as to whether or not one of them should be a road. He felt there are serious security problems with doing developments like this and not having multiple points out.

Mayor Stone stated Council was at the zoning stage and the discussion tonight was not part of zoning. He said most of this discussion would be part of the specific site plan. He explained the next meeting would be the second reading which would include a public hearing. He said the only action tonight would be to move this to the second and third reading and there would be no need to add anything until the third reading. He believed the roads needed to be looked at but this was not something that needed to be done this night as this would be addressed when they review the specific site plan.

Vice Mayor Vann asked for clarification as to how many units would be built. Mr. Simms replied 90. She asked if the open space would connect to Cinnamon Ridge Park. Mr. Simms replied yes. Vice Mayor Vann said they need a traffic study because she was worried about the buses and access. She was not sure if it was appropriate to ask now with the rezoning or if this request would come at the specific site plan stage.

Mayor Stone said Council was giving the developer and staff their thoughts so they

August 8, 2016

could be prepared.

Council Member Whilding questioned the retention pond within the buffer when it is a commercial property. Mr. Burkett clarified when there is commercial abutting residential and a 50 foot buffer exists it is allowed to put the retention pond within the buffer. He said it is the same with multi-family abutting single family. Council Member Whilding questioned the maximum allowed within the 50 foot buffer. Mr. Burkett explained there is a list in the planning code of what you can do within a 50 foot buffer. Mayor Stone asked the developer if the image of the water is a high water mark. Mr. Simms said he could not answer the question because the engineering studies were underway currently. He said they would probably do some buffering in that area with some trees. He said the plan is to make it look very nice and enhance things. Mayor Stone suggested to Council to research on their own and possibly add an additional condition at the third reading. Council Member Whilding said he had heard stories of developers building the embankment up to accommodate the need of the pond. He said if the pond is raised too far he was concerned of its ability to hold.

Council Member Wallace asked Mr. Burkett to define R-PUD (Residential Planned Unit Development) for the public and the controls the City can place on a PUD versus straight zoning. Mr. Burkett explained with a straight zoning like R-1A, it comes with a list of set regulations on no ability to have input or control on the design. He said the R-PUD allows the city to ask for extra enhancements with landscaping, building materials and gives the city some creative control and input of the design of both the architecture and the site of the plans.

Council Member Whilding MOVED to amend Section II by adding condition 11 stating at the specific site plan, the Beavercreek Police Department and Beavercreek Fire Department analyze the two northern access points of this PUD.

Council Member Upton questioned if the rezoning is approved and this development does not happen, and another applicant comes forward in the future if the new applicant would be held to this condition. Mr. McGrath explained with a PUD, anything other than this plan would have to come back for rezoning and the reason why the first condition is always adopting a concept plan at zoning.

Council Member Jarvis seconded the motion.

Vice Mayor Vann asked at the specific site plan, if this request would be done automatically because every development is analyzed by both the police and fire departments and the health district before they are approved. She asked if this was just repeating what normal procedures were or did they need this motion.

August 8, 2016

Mr. McGrath said in this case this is procedure but it would be important to do now to give the residents the idea these two access points have to be analyzed further before it is set in stone to be emergency access. He said the concept plan shows them as emergency access points. He said this would give staff more room to work with the fire department to be sure the issues have been addressed.

Vice Mayor Vann said there are probably going to be more traffic issues with the bus and amount of traffic. Mr. McGrath said he would speak more with engineering regarding the traffic and would report on that at the specific site plan which is typically where this is addressed and the process.

Motion PASSED by majority voice vote.

Ordinance 16-19 (First Reading)

Council Member Upton MOVED to approve Ordinance 16-19 as amended and move to the second and third readings, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

## **ORDINANCES, RESOLUTIONS AND PUDS**

**Ordinance 16-12** BAN for Not To Exceed \$1.5 million for Lofino Renovation (Third Reading)

Clerk Lampton read an Ordinance providing for the issuance of not to exceed \$1,500,000 building improvement bond anticipation notes by the City of Beaver Creek, Ohio in anticipation of the issuance of bonds.

Council Member Upton MOVED to approve Ordinance 16-12, seconded by Council Member Wallace. Motion PASSED by a roll call vote of 7-0.

**Ordinance 16-14** Re-issue of \$325,000 for Traditions of Beaver Creek Assessment Project (Third Reading)

Clerk Lampton read an Ordinance providing for the issuance of not to exceed \$325,000 road improvement special assessment bond anticipation notes (Traditions at Beaver Creek Project), first (2016) renewal by the City of Beaver Creek, Ohio in anticipation of the issuance of bonds.

Council Member Whilding MOVED to approve Ordinance 16-14, seconded by Council Member Wallace. Motion PASSED by a roll call vote of 7-0.

**Ordinance 16-15** Consolidation of Projects into on BAN (Third Reading)



August 8, 2016

Clerk Lampton read an Ordinance authorizing the issuance of not to exceed \$1,825,000 of various purpose bond anticipation notes, by the City of Beavercreek, Ohio, in anticipation of the issuance of bonds.

Council Member Whilding MOVED to approve Ordinance 16-15, seconded by Council Member Jarvis. Motion PASSED by a roll call vote of 7-0.

**Ordinance 16-17** PC 16-1 Zoning Code Update (Second Reading)

Clerk Lampton read an Ordinance amending Chapter 158, by making certain additions, deletions, and changes to various sections of the Zoning Code. (PC 16-1)

There being no public input, the public hearing was closed.

This Ordinance will move automatically to the Third Reading.

**Ordinance 16-18** Supplement to the Code of Ordinance S-30

Clerk Lampton read an Ordinance enacting and adopting a Supplement to the Code of Ordinances for the City of Beavercreek and declaring an emergency

Clerk Lampton explained all ordinances previously adopted are required to be codified which also allows updates to the Ohio Revised Code be adopted by Council. She said it is done as an emergency to allow the update to go into effect immediately.

Council Member Litteral MOVED to approve Ordinance 16-18 as an emergency, seconded by Vice Mayor Vann. Motion PASSED by a roll call vote of 7-0.

**Resolution 16-17** Col. Glenn Resurfacing Project; LPA (Local Project Administration) Agreement

Clerk Lampton read a Resolution authorizing the City Manager to enter into a LPA Federal Project Agreement with the Ohio Department of Transportation for the project known as Colonel Glenn Resurfacing Project, PID No. 103060.

Mr. Smith explained this was a Resolution for an agreement with the Ohio Department of Transportation (ODOT) for the City of Beavercreek to enter into an LPA Agreement to administer the Col. Glenn Project for resurfacing. He explained project will extend from Grange Hall Road to the City corporation limit and will include curb, sidewalk and catch basin repair. He said construction would start spring 2017.

August 8, 2016

Council Member Jarvis MOVED to approve Resolution 16-17, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

### **LIQUOR PERMITS**

#### **Walgreen Co. DBA Walgreens 11510 (Stock)**

Chief Evers said the Ohio Department of Commerce, Division of Liquor Control sent notification of a request regarding a change of corporate stock on a C1, C2 liquor permit for Walgreen Co. DBA Walgreens 11510, 2269 N. Fairfield Rd., Beavercreek, OH 45431. The records checks required by the Ohio Department of Commerce, Division of Liquor Control were conducted on the applicant/shareholders for this application. Staff recommended this application request move forward with no comment.

Council Member Litteral MOVED to accept without comment, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

#### **Maxs Sports and Spirits Inc. (Stock)**

Chief Evers said the Ohio Department of Commerce, Division of Liquor Control sent notification of a request regarding a change of corporate stock on a D1, D2, D3, D3A, D6 liquor permit for Max Sports and Spirits Inc., 3991 Dayton-Xenia Rd. Beavercreek, OH 45432. The record checks required by the Ohio Department of Commerce – Division of Liquor Control were conducted on the applicant/shareholders for this application request. Staff recommend this application request move forward with no comment.

Council Member Litteral MOVED to accept without comment, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

### **CITY MANAGER'S REPORT**

Mr. Kucera said the Police Department was awarded by CALEA the Accreditation with Excellence Award.

Chief Evers read a letter received from CALEA regarding the accreditation. He said this is a significant milestone for the police department and this community.

Mayor Stone thanked the chief and the department stating it was no surprise the department had achieved this accreditation as they know how good they are. Chief Evers stated there were only approximately 5% of law enforcement agencies across the United States that receives accreditation; less than 2% receive it with excellence.

August 8, 2016

Mr. Kucera said the audit that was spoken of at the beginning of the meeting is available on the website. The Auditor of State Award will be presented to the City at a future meeting. He said only 5% of municipalities receive this award with distinction.

#### **MAYOR'S REPORT**

Mayor Stone said State Representative Rick Perales would be holding office hours at the Beaver Creek Golf Course on August 23<sup>rd</sup> from 3 – 5 p.m. There will be a 9/11 Remembrance Service at the 9/11 Memorial on September 11<sup>th</sup> at 6:00 p.m.

#### **COUNCIL TIME**

Council Member Litteral was proud of the Financial Department and the entire staff at the city. She thanked the Police Department for their hard work and congratulated them.

Council Member Upton echoed Council Member Upton's comments. He said it has become the expectation rather than the exception which is wonderful for our community. He said the citizens should feel good and confident that our departments are running in tip top shape.

Council Member Wallace echoed the prior comments. She said the City is accepting board/commission applications for various vacancies. Please see the website for more information. She reviewed the employee anniversaries. Congratulations to everyone.

Vice Mayor Vann said last spring they talked about strategic planning which was postponed for various reasons. She said it was important to put it in the budget for next year and asked that it be put back into the work session budget. She said she would be presenting it to help the new City Manager and the Council. She said they need to do one for all the capital improvements. She said there is a group of people giving tribute to Ben O'Diam and was looking for stories to put in a book. She had received requests from some residents to have signs posted where former villages were located throughout the city.

Council Member Jarvis congratulated the Police and Finance Department for their awards.

Council Member Whilding congratulated the Police and Finance Department. He said the Greene CATS board meeting mobility manager is looking for any input for the bus service in Beaver Creek.

#### **CITIZEN COMMENTS**

August 8, 2016

There were no citizen comments.

**ADJOURNMENT**

Council Member Jarvis MOVED to adjourn the meeting at 7:22 p.m., seconded by Council Member Upton. Motion PASSED by majority voice vote.

  
\_\_\_\_\_  
Bob Stone, Mayor

ATTEST:

  
\_\_\_\_\_  
Dianne Lampton  
Clerk of Council  
Cmin080816